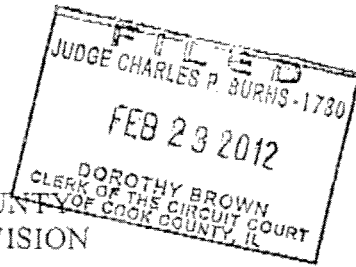


STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

IN THE CIRCUIT COURT OF COOK COUNTY  
COUNTY DEPARTMENT, CRIMINAL DIVISION



PEOPLE OF THE STATE OF ILLINOIS, )  
Plaintiff, )

vs.

NO. 09CR-762

WILLIAM BALFOUR,  
Defendant.

MOTION IN LIMINE TO ALLOW JULIA HUDSON TO TESTIFY ABOUT DEFENDANT'S  
THREATS AND STATEMENTS TO HER

NOW COME the People of the State of Illinois, by their attorneys, the State's Attorney of Cook County, Anita Alvarez, through James P. McKay, Veryl Gambino, and Jennifer Bagby, Assistant State's Attorneys, who respectfully request that this Court allow them to present evidence of defendant's threats and statements he made to Julia Hudson. In support of this motion, the People state the following:

1. The defendant, William Balfour, has been charged in this case with the first degree murders of Darnell Donerson (Julia Hudson's mother), Jason Hudson (Julia Hudson's brother), and Julian King (Julia Hudson's son), as well as home invasion, aggravated kidnapping, residential burglary, and possession of a stolen motor vehicle.
2. Throughout the months preceding the murders, defendant repeatedly made threats to Julia Hudson that he was going to kill her family before killing her, in addition to other statements. The marital privilege does not bar testimony when the interests of any child in either spouse's care are directly involved or when the defendant is charged with an offense against the property of the other. 725 ILCS 5/115-16 (West 2012). The interests of her son included not only his own safety and well-being, but also the safety and well-being of his grandmother and uncle who he lived with. Since

both the interest of Julia's child is directly involved and since defendant has been charged with an offense against Julia's property (residential burglary and home invasion of her home), the marital privilege does not apply, and all communications between defendant and Julia are admissible.

3. Section 115-16 of the Code of Criminal Procedure of 1963 sets forth both the privilege barring the testimony of one spouse about conversations with the other spouse and the exceptions to that privilege:

"In criminal cases, husband and wife may testify for or against each other. Neither, however, may testify as to any communication or admission made by either of them to the other or as to any conversation between them during marriage, *except* in cases in which either is *charged with an offense against the person or property of the other*, in case of spouse abandonment, *when the interests* of their child or children or *of any child or children in either spouse's care, custody, or control are directly involved*, when either is charged with or under investigation for an offense under Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 and the victim is a minor under 18 years of age in either spouse's care, custody, or control at the time of the offense, or as to matters in which either has acted as agent of the other." 725 ILCS 5/115-16 (West 2012) (emphasis added).

4. "The marital privilege does not result from a policy of safeguarding the quality of evidence presented at trial. . . ." People v. Hall, 194 Ill. 2d 305, 336 (2000). While "the marital privilege stems from a policy of promoting family harmony" (Hall, 194 Ill. 2d at 336), the purpose of the marital privilege is not served by applying it when one spouse kills the other spouse's child because "there is no marital harmony left to preserve" (People v. Eveans, 277 Ill. App. 3d 36, 44-45 (4th Dist. 1996)).
5. Significantly, "the child interest exception should be construed broadly to afford the greatest protection to children rather than to the abusive or murderous spouse." Eveans, 277 Ill. App. 3d at 45; see also People v. Wheeler, 291 Ill. App. 3d 619, 622

(4th Dist. 1997) (citing Eveans). The child interest exception applies “when either spouse has the care, custody, or control of any child not only at the time of trial, but also *at the time of the offense*.” Eveans, 277 Ill. App. 3d at 45 (emphasis in original). As Eveans recognized, “Once a spouse has committed an abusive act against a child, the damage to marital harmony has already been done.” Id.

6. Here, the child interest exception clearly applies. Defendant repeatedly threatened to kill Julia Hudson’s family first, before killing Julia herself. Her family, of course, included her son, Julian, as well as her mother and brother. All four of them lived together in the home at 7019 South Yale in Chicago. As the child interest exception should be construed broadly, the interests of Julian included not only his physical safety, but also the safety of the family members he lived with.
7. Over several months, defendant repeatedly threatened to kill Julia and her son, mother, and brother. (See the appendix to this motion, specifically at pages 269, 300, 310, 311, 316, 1325, 1327, 3728, 5721-5723).
8. On the evening of May 6, 2008, defendant told Julia, “If you leave me, I’ll kill you, You’ll be the last to die.” (App. at 7622).
9. On July 31, 2008, after Julia told defendant that they were going to get divorced in the morning, defendant told her again that, “If you leave me, I’m going to kill you. You will be the last. I’ll kill your family first.” (App. at 7622)
10. Sometime in the late summer or September of 2008, defendant threatened to kill Julia’s new boyfriend, Richard. (App. at 5722-23). Defendant told Julia that “the next time I see Richard here, I’m coming through and dumping.” “Dumping,” according to Julia, means “shooting.” When Julia asked defendant if he would shoot “even with

my baby on the block,” defendant responded that he did not care who was on the block. (App. at 7622).

11. On October 9, 2008, Julia was at her job driving a school bus when she saw defendant’s car. She parked her bus near 73rd and Vincennes, and defendant entered the bus and sat on the front seat on the passenger’s side. Defendant told Julia, “You know I came to your job to kill you that day.” Defendant also stated, “Listen to me and listen to me good. I’ve been thinking about taking Julian.” Defendant then started to bother Julia about being intimate with her friend, Richard. After Julia responded that she had not been intimate with Richard yet, but that she would on her birthday (October 23), defendant again threatened to kill Julia. He stated, “I’m going to kill your family first, then kill you.” Defendant made these threats at least 25 times since they had been separated. (App. at 300, 316, 1427, 7623-24).
12. On October 17, 2008, Julia went to a motel with defendant to have sex. Late that night as they were in bed, Julia told defendant that she thought he was crazy. Defendant responded by asking Julia how she would feel if he never saw her again. Julia responded, “I really wouldn’t care.” Defendant looked at her in disbelief. (App. at 7624).
13. On October 24, 2008, in the early morning, Julia saw defendant standing outside her bedroom window at 7019 South Yale. Julia motioned for defendant and let him inside the house. Defendant entered the home. He asked Julia why she had been ignoring him. Defendant also saw the balloons that Richard had given to her. Defendant punched at the balloons. He became angry as he asked about her new boyfriend. Both defendant and Julia left the home about five minutes later. Defendant had earlier

asked Julia if he could see her that night. Defendant also told Julia that he had seen her mother that morning looking out from her upstairs window. Defendant also told Julia during that encounter that he had been drinking all night. (App. at 311, 1330, 1327, 1427, 5722, 7624).

14. Upon arriving at work on October 24, 2008, Julia received a letter from a finance company that stated that her wages were going to be garnished because of non-payment on a loan for a 1994 Chrysler that she had co-signed with defendant. Julia called defendant to complain about the letter and told him that she thought he had taken care of it. Defendant told Julia that he was going to look into it. Defendant then said how tired he was and that he was going to go to "Duke's" house to sleep. (App. at 269, 310, 1326, 1389).

15. Finally, on October 24, 2008, after the murders, but before Julian's body had been found, defendant called Julia around 3:25 p.m. Julia asked defendant where he was. Defendant stuttered and did not answer immediately. Defendant kept saying he was, "uh, uh, uh, up north." (App. at 5722, 7625).

16. The marital privilege does not apply here for two reasons: (1) the interests of Julia's son are directly involved, and (2) defendant has been charged with an offense against the property of Julia. Defendant has been charged with the murder of Julia's son, mother, and brother, as well as the aggravated kidnapping of Julian, home invasion, and residential burglary. Clearly, this is a case in which "the interests of any child in either spouse's case, custody, or control are directly involved." 725 ILCS 5/115-16 (West 2012). Moreover, defendant has been charged with an offense against Julia's


property in that he has been charged with residential burglary and home invasion at 7019 South Yale (Counts 54-61, 71-75), which is Julia's home.


17. For each of those independent reasons, the marital privilege does not apply, and Julia should be allowed to testify to *any* communication or admission made by defendant to her and to any conversation between them. See 725 ILCS 5/115-16; Eveans, 277 Ill. App. 3d at 44-45. Neither the statute nor case law requires that the statements made by the defendant be limited specifically to the threats against the child's interest or to the victim's property. This is especially true in light of the fact that "the child interest exception should be construed broadly to afford the greatest protection to children rather than to the abusive or murderous spouse." Eveans, 277 Ill. App. 3d at 45; see also Wheeler, 291 Ill. App. 3d at 622 (citing Eveans).

WHEREFORE, the People of the State of Illinois respectfully request that this Honorable Court grant this motion and allow Julia Hudson to testify to the threats and statements defendant made to her.

Respectfully submitted,

  
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Assistant State's Attorney